

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

CARL LEROY COMBS,

Plaintiff,

vs.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

No. C06-4061-PAZ

ORDER

The plaintiff has filed a motion (Doc. No. 35) for additional attorney's fees under 42 U.S.C. § 406(b). The \$6,700.00 in fees requested by counsel represent his time expended in the administrative process of the plaintiff's claim, rather than time expended during the court's judicial review process.

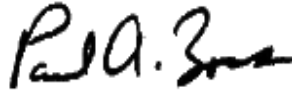
The Commissioner resists the motion, arguing time spent during the administrative process "is payable by the Commissioner, not the Court, pursuant to 42 U.S.C. § 406(a)." The Commissioner suggests counsel must request payment of these fees from the Social Security Administration.

The Commissioner is correct. "The authority to award attorney's fees for services performed at the administrative level is committed by [the statute] to the Secretary and may not be exercised by the courts." *Davis v. Bowen*, 894 F.2d 271, 272 (8th Cir. 1989) (citations omitted). In a letter from the SSA to the plaintiff's attorney dated August 9, 2008, attached to the plaintiff's motion, the agency advised counsel that the proper method of requesting these fees is to petition the "Office of Disability Adjudication and Review, Attorney Fee Branch in Falls Church, Virginia[.]" Doc. No. 35-3.

The motion is **denied**.

IT IS SO ORDERED.

DATED this 16th day of October, 2008.

A handwritten signature in black ink, appearing to read "Paul A. Zoss".

PAUL A. ZOSS
CHIEF MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT